

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 707  
Finance

(Senator Middleton)

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**Freestanding Medical Facilities - Certificate of Need, Rates, and Definition**

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This bill exempts the conversion of a licensed general hospital to a freestanding medical facility (and any related capital expenditure) from the requirement to obtain a certificate of need (CON) and establishes the procedures for obtaining the exemption from the Maryland Health Care Commission (MHCC). Provisions governing freestanding medical facilities are consolidated and updated. MHCC must establish by regulation specified requirements for a public informational hearing for hospitals proposing to close, partially close, or convert to a freestanding medical facility.

The bill takes effect July 1, 2016.

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**Fiscal Summary**

**State Effect:** Any additional workload on MHCC and the Health Services Cost Review Commission (HSCRC) can be handled within existing budgeted resources. Revenues are not affected.

**Local Effect:** Local government finances are not anticipated to be materially affected.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The Department of Health and Mental Hygiene (DHMH) must issue a license to a freestanding medical facility that receives a CON or an exemption from obtaining a CON.

*Exceptions to the Certificate of Need Requirement for Freestanding Medical Facilities:* A CON is required to establish or operate a freestanding medical facility except if (1) the facility is established as the result of the conversion of a licensed general hospital; (2) through the conversion, the licensed general hospital will eliminate the capability to admit or retain patients for overnight hospitalization, except for observation stays; (3) the facility will remain on the site of or adjacent to the licensed general hospital, with certain exceptions; (4) at least 45 days before the conversion, written notice of intent to convert is filed with MHCC; (5) MHCC finds that the conversion is not inconsistent with the State Health Plan, will result in the delivery of more efficient and effective health care services, will maintain adequate and appropriate delivery of emergency care as determined by the Emergency Medical Services Board, and is in the public interest; and (6) MHCC notifies the licensed general hospital of its findings within 45 days after receiving notice of intent to convert. A CON is also not required for the establishment or operation of a freestanding medical facility pilot project.

*Exceptions for Siting of Freestanding Medical Facilities:* MHCC may approve a site for a freestanding medical facility that is not on the site of or adjacent to the licensed general hospital if the hospital is (1) either the only hospital in the county or one of two hospitals in the county that are part of the same merged asset system and (2) the site is within a five-mile radius and in the primary service area of the licensed general hospital.

*Requirements for Public Informational Hearings:* A hospital must hold a public informational hearing in the county where the hospital is located if the hospital (1) files a notice of the proposed closing with MHCC; (2) requests a CON exemption to convert a hospital to a freestanding medical facility; or (3) is located in a county with fewer than three hospitals and files a notice of the partial closing of the hospital with MHCC. A public informational hearing must be held within 30 days after the hospital files a notice of intent to convert to a freestanding medical facility.

Within 10 working days after a public informational hearing, the hospital must provide a written summary of the hearing to the Governor, the Secretary of Health and Mental Hygiene, the governing body of the county in which the hospital is located, the local health department and local board of health, MHCC, and specified committees and members of the General Assembly.

*Rate Setting:* The bill alters the definition of “hospital services” for purposes of rate setting to include (1) emergency services provided at a licensed freestanding medical facility and (2) outpatient services provided at a licensed freestanding medical facility that has received a CON or an exemption from obtaining a CON. A freestanding medical facility must have a license, instead of a CON issued after July 1, 2015, to have the facility’s rates set by HSCRC.

*Provider-based Status:* The definition of “freestanding medical facility” for purposes of licensure is altered to allow a freestanding medical facility established as a result of a conversion of a licensed general hospital to be physically part of a hospital or on hospital grounds. A freestanding medical facility must meet the requirements for provider-based status under the certification for an affiliated hospital established in federal regulations.

### **Current Law:**

*Freestanding Medical Facilities:* Chapters 549 and 550 of 2005 established the category of freestanding medical facility and required licensure of such facilities by DHMH. Chapters 505 and 506 of 2010 required HSCRC to set rates for services provided at freestanding medical facilities and required all payors subject to the rate-setting authority of HSCRC, including Medicaid, to pay the HSCRC rates for hospital services at freestanding medical facilities.

*Certificate of Need Process:* Maryland’s CON program is intended to ensure that new health care facilities and services are developed in the State only as needed and that, if determined to be needed, they are cost-effective; high quality; geographically and financially accessible; financially viable; and will not have a significant negative impact on the cost, quality, or viability of other health care facilities and services. With certain exceptions, a CON is required to (1) build, develop, or establish a new health care facility; (2) move an existing health care facility to another site; (3) change the bed capacity of a health care facility; (4) change the type or scope of any health care service offered by a health care facility; or (5) make a health care facility capital expenditure that exceeds a specified threshold. A CON is not required to close any health care facility or part of a health care facility in the State if notice of the proposed closure is filed with MHCC at least 45 days prior to closure or partial closure. A hospital located in a county with fewer than three hospitals must also hold a public informational hearing in the county where the hospital is located within 30 days after submitting notice of intent to close or partially close.

*Rate Setting:* For purposes of rate setting, “hospital services” means (1) inpatient hospital services under Medicare regulation 42 CFR 409.10; (2) emergency services, including services provided at freestanding medical facility pilot projects and a freestanding medical facility issued a CON by MHCC after July 1, 2015; (3) outpatient services provided at the hospital; and (4) identified physician services for which a facility has rates approved by HSCRC on June 30, 1985.

**Background:** There are three freestanding medical facilities in Maryland: Adventist HealthCare Germantown Emergency Center; the Bowie Health Center; and the Queen Anne’s Emergency Center. Each of these facilities was established to provide limited services. HSCRC sets the rates for emergency department (ED) and ED-related services for these facilities.

Under the bill, a licensed general hospital could elect to convert into a freestanding medical facility (without obtaining a CON from MHCC) rather than closing or partially closing. In addition to ED and ED-related services, freestanding medical facilities established from the conversion of a licensed general hospital could also provide (and be paid HSCRC-regulated rates for) outpatient services and observation stays (a stay generally lasting no more than 48 hours that is provided as an outpatient service to allow testing and medical evaluation of a patient's condition).

According to MHCC, hospital admissions have been declining nationally and in Maryland. Both urban and rural hospitals have been affected by reduced utilization. Preserving access to appropriate emergency and primary care services is a special concern for rural communities. The bill is intended to provide an alternative transitional model for preserving emergent/urgent care capability.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1350 (Delegate Hammen) - Health and Government Operations.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

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